DEPARTMENT OF HEALTH & HUMAN SERVICES

94923d

Food and Drug Administrati

Dallas District
4040 North Central Express
Dallas, Texas 75204-3145

August 6, 2004

**REF- 2004-DAL-WL-29**

**WARNING LETTER**

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Dr. Richard D. Hansen, DVM
Chief Operating Officer
The Veterinary Pharmacy, Inc. (TVPI)
812 NE 24th Street
Newcastle, Oklahoma 73065

Dear Dr. Hansen:

A Food & Drug Administration (FDA) investigator conducted an inspection of your firm from March 1, 2004 through April 5, 2004. The inspection covered your firm's compounding and distribution of single dose Biobullet® drug products (containing ivermectin or ceftiofur sodium) distributed for food producing animals and horses, for propulsion into the flat muscle of an animal by a pneumatic .25 caliber rifle, also available from your firm. The inspection documented significant violations of the Federal Food, Drug, and Cosmetic Act (the Act).

The Animal Medicinal Drug Use Clarification Act (AMDUCA) of 1994 and its implementing regulations at Title 21, Code of Federal Regulations, (CFR) Part 530 – Extralabel Drug Use in Animals, allows a veterinarian or pharmacist to compound animal drugs on the lawful written order of a licensed veterinarian when the health of an animal(s) is threatened and only if certain conditions are met. The conditions include the requirement that the compounding be within the context of a valid Veterinary-Client-Patient-Relationship (VCPR), and that the compounding be conducted with the use of already approved drug products. Compounding using bulk active pharmaceutical ingredients (APIs) is not permitted.

**Marketing Practices:**

TVPI promotes the sales of its ivermectin and ceftiofur sodium Biobullet® drug products by directly contacting the prospective customer's veterinarian. If the veterinarian declines to prescribe and authorize the compounding of the Biobullet® drug product, TVPI assists the prospective customer in finding a veterinarian who will prescribe and authorize compounding of the Biobullet® drug product, resulting in the lack of a valid VCPR.

Once a veterinarian has agreed to prescribe and authorize the use of the drug Biobullets® TVPI provides a partially completed prescription order form to be finished by the veterinarian. However, this prescription order form is already filled in by TVPI with the drug concentration, directions for use, and in the case of ivermectin, a 30 day withdrawal. The prescription order is not based on the directions of the prescribing veterinarian. The information from the prescription order form is translated into prescription labeling when shipped. Our inspection has shown instances where the prescription order forms were signed by the veterinarian, but did not contain the required information, e.g., date, amount to be dispensed, and number of refills. Prescription labeling lacks the same information, required for extralabel use by 21 CFR 530.12.

***Compounding Ivermectin Biobullets®:***

The inspection confirmed that your firm has compounded and distributed in interstate commerce, ivermectin Biobullets® for administration to food producing animals. The compounding has been conducted using ivermectin powder API labeled in part "** [redacted] * Batch No. 000307 * EXPIRY DATE: 2002.03 * [redacted] **" and received on 4/24/01 from [redacted]

TVPI's records indicate that [redacted] ivermectin pellets were compounded and that the same number of Biobullets® were distributed on 4/20/01. Other batches have been compounded since, although numerous FDA approved and OTC ivermectin drug products for animal use are available on the market. Your compounding using the bulk API is not permitted under AMDUCA. The following are examples of recent ivermectin Biobullet® shipments, the compounding of which was conducted with the use of an expired lot of ivermectin API:

On or about 2/18/04, 50 ivermectin Biobullets® labeled in part "** [redacted] ** Ivermectin-one bullet per 500# of body weight in large flat muscle or as directed ** 30 day withdrawal ** [redacted] **" were shipped via UPS to [redacted] in response to an e-mail from [redacted] TVPI Pharmacy Technician. The shipment was made without your firm having a veterinarian's prescription order for the drug and without establishing the existence of a VCPR. Your files do not include documentation that the drugs were

identified for a particular species of animal to be treated; diagnosis of a specific disease(s); dosage and time period for treatment; or a withdrawal time, established by a practicing veterinarian, for animals that may be marketed for consumption as human food. The website for [redacted] announces the availability of its bison meat products from its USDA approved processing facility.

On or about 2/18/02, 30 ivermectin Biobullets® were shipped via UPS to [redacted] under TVPI Invoice # 43051. The shipment was made to this cattle ranch without your firm having a veterinarian's prescription order for the drug and without establishing the existence of a VCPR.

These drugs, which are for administration in food producing animals, were compounded using bulk APIs. Such compounding is not permitted under 21 CFR Part 530.

The ivermectin Biobullet® drug product compounded and distributed by your firm is a new animal drug as defined under section 201(v) of the Act. The composition is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of animal drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in its labeling. The drug is adulterated under section 501(a)(5) of the Act because it is unsafe within the meaning of section 512 of the Act. Section 512 in part deems a new animal drug to be unsafe unless an approved new animal drug application (NADA) is in effect for the specific product in question. The Veterinary Pharmacy, Inc. holds no FDA approval of an application for its ivermectin Biobullets® drug product.

**Compounding Ceftiofur Sodium Biobullets®:**

Your firm also compounds and distributes large quantities of ceftiofur sodium Biobullets® for food producing animals using ceftiofur sodium labeled in part "** [redacted] ** For intramuscular injection in cattle, *** [redacted] ** Preslaughter meat withdrawal = 0 hrs. ** Caution: Federal Law restricts this drug to use by or on the order of a licensed veterinarian. ** Mfd. for: [redacted] * By: [redacted] **".

TVPI records indicate that [redacted] ceftiofur sodium pellets were compounded and that the same number of Biobullets® were distributed between the dates of 11/26/03 and 12/3/03. Records available at your firm document the following examples of recent ceftiofur sodium Biobullet® shipments:

On or about 1/5/04, 500/100mg Ceftiofur Sodium Biobullets® labeled in part "**OFFICE USE FOR [redacted] ** One bullet per 250 lbs. of bodyweight ** or as

directed by veterinarian.** 30 day withdrawal.**" were shipped via UPS to [redacted] As of 4/28/04, 100 of the Biobullets® remained in stock for office use at the firm.

On or about 1/31/02, 20/100mg Ceftiofur Sodium Biobullets® labeled in part "** [redacted] ** One bullet per 250 lbs of bodyweight ** or as directed by veterinarian. ** 30 day withdrawal.[redacted]**" were shipped via UPS to [redacted] This shipment was made on the basis of a prescription order dated 1/31/02 by [redacted] This order also authorized 5 refills of 20 Biobullets®. Records available at TVPI and at [redacted] clinic document that 50 of the Biobullets® were shipped to [redacted] on each of the dates of 2/18/02 and 3/18/02. Records also show additional shipments by TVPI of the Biobullets® to the ranch on 4 different dates from 4/16/02 to 1/19/04 for a total of 310 Ceftiofur Sodium Biobullets® that are not covered by a prescription order.

The ceftiofur sodium Biobullets® were compounded with the use of an FDA approved drug product, labeled [redacted] in food producing animals. The ceftiofur sodium Biobullet® drugs were distributed contrary to the requirements of AMDUCA and its implementing regulations at 21 CFR 530.13(b)(2) and 21 CFR 530.20, because the conditions for permitting such extralabel drug use from approved animal drugs have not been met. The products were compounded and shipped without documentation of a veterinarian's initiated prescription order, based on a VCPR. In addition, there was no determination that an approved new animal drug or approved human drug, when used as labeled or in conformity with criteria established in 21 CFR Part 530, will not, in the available dosage form and concentration, appropriately treat the condition diagnosed.

We are in receipt of your April 26, 2004, written reply to the inspection and Form FDA-483 Inspectional Observations. We acknowledge your destruction of the expired bulk ivermectin used in Biobullet® compounding and your agreement to discontinue this product. However, we note that you have not stated your intentions regarding the unapproved and adulterated ivermectin Biobullets® already distributed by your firm that was compounded with the expired API.

Additionally, your response does not satisfactorily address steps to be taken to assure the safety and efficacy of ceftiofur sodium Biobullets®, which your firm continues to distribute The testing conducted on the ceftiofur sodium Biobullets®, documented in final reports entitled "Influence of Ceftiofur Sodium Bio-Bullets Administration on Tenderness and Tissue Damage in Beef Round Muscle", and "Blood Availability:[redacted] are not adequate to provide assurance of the drug product's safety and effectiveness for its intended use (see 21 CFR 530.13(b)(4)).

The corrections stated in your response regarding the filling and dispensing of prescriptions for your compounded Biobullet® drug products appear to be adequate, however, all compounding and distribution of the products must meet conditions and requirements as set forth by the regulations, 21 CFR 530. Your corrections will be evaluated for compliance with the regulations and the Act during a future inspection.

You should take prompt action to correct these violations and assure that your future manufacturing and distribution of compounded prescription veterinary drugs complies with the requirements of the Act and its implementing regulations. Failure to correct the violations and to establish procedures whereby such violations do not recur may result in possible Agency actions against regulated products and/or responsible individuals. These sanctions may include, but are not limited to, seizure and/or injunction.

You should notify this office in writing within 15 working days of receiving this letter of the steps you have taken to bring your firm into compliance with the law. Your response should include each step taken, or to be taken, to correct the violations and prevent their recurrence. You should include copies of any available documentation demonstrating that corrections have been made. You should address your response to the attention of James R. Lahar, Compliance Officer at the above letterhead address.

Sincerely,

Michael A. Chappell
Dallas District Director

MAC:jrl

cc: Oklahoma State Board of Pharmacy
Executive Director
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Board of Veterinary Medical Examiners
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